

REMARKS

In response to the restriction requirement issued June 3, 2002 in the above-referenced patent application, Applicants elect for prosecution the invention of Group I, claims 1-6, 9-14, 17-24, 30 and 31. The remaining claims have been canceled as drawn to a non-elected invention. Applicants reserve the right to prosecute the claims of the non-elected invention in one or more continuing applications.

In the event that Group I was chosen for prosecution, the examiner issued a requirement for election of species of one nucleic acid sequences SEQ ID NO:1 or SEQ ID NO:10. Applicants traverse this requirement for election of species. As stated in 37 C.F.R. §1.141, a reasonable number of species may be claimed in one application if all other requirements of the rule are met. Only two species are covered by the group comprising SEQ ID NOS: 1 and 10. Applicants submit that two is a quite reasonable number of species to be contained in a single patent application. Moreover, SEQ ID NOS: 1 and 10 are related in that SEQ ID NO:1 is a cDNA of the gene represented by SEQ ID NO:10. Hence, a search and examination of this small number of closely related species would not place an undue burden on the examiner. Therefore, in the interest of providing a full and fair examination of the subject matter of the elected invention, Applicants request withdrawal of the requirement for election of species.

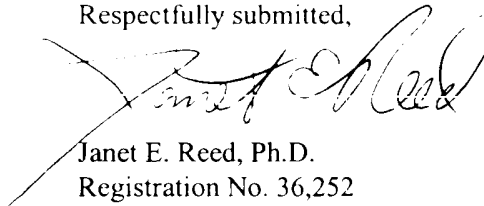
To be fully responsive in the event the requirement for election of species is not withdrawn, Applicants elect species SEQ ID NO:10. Claims readable on this species include

DOCKET NO.: WARF-0138 (P98103CIP)

PATENT

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,



Janet E. Reed, Ph.D.
Registration No. 36,252

Date: 7/3/02

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PATENT

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 7, 8, 15, 16, 25, 26 and 32-45 have been canceled.

1638

DOCKET NO.: WARF-0138

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Spalding, et al.

Serial No.: 09/817,762

Group Art Unit: 1638

Filing Date: March 26, 2001

Examiner: M. Ibrahim

For: MDR-Like ABC Transporter Gene from Plants

COPY OF PAPERS
ORIGINALLY FILED

DATE OF DEPOSIT: July 3, 2002

I HEREBY CERTIFY THAT THIS PAPER IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL
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TYPED NAME: Janet E. Reed
REGISTRATION NO.: 36,252

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☐ AF

Assistant Commissioner for Patents
Washington DC 20231

Sir:

REPLY TRANSMITTAL LETTER

Transmitted herewith for filing in the above-identified patent application is:

☐ A Preliminary Amendment

☐ A Amendment Supplemental to the Paper filed

☐ Other: _____

- ☒ Applicant(s) has previously claimed small entity status under 37 CFR §1.27.
- ☐ Applicant(s) by its their undersigned attorney, claims small entity status under 37 CFR §1.27 as:
- ☐ an Independent Inventor
 - ☐ a Small Business Concern
 - ☐ a Nonprofit Organization
- ☐ This application is no longer entitled to small entity status. It is requested that this be noted in the files of the Patent and Trademark Office.
- ☐ Substitute Pages _____ of the Specification are enclosed.
- ☐ An Abstract is enclosed.
- ☐ _____ Sheets of Proposed Corrected Drawings are enclosed.
- ☐ A Certified Copy of each of the following applications: _____
_____ is enclosed.
- ☐ An Associate Power of Attorney is enclosed.
- ☐ Information Disclosure Statement.
- ☐ Attached Form 1449.
 - ☐ A copy of each reference as listed on the attached Form PTO-1449 is enclosed herewith.
- ☐ Appended Material as follows:

FEE CALCULATION

☒ No Additional Fee is Due.

				SMALL ENTITY		NOT SMALL ENTITY	
	REMAINING AFTER AMENDMENT	HIGHEST PAID FOR	EXTRA	RATE	FEE	RATE	FEE
TOTAL CLAIMS	25	45 (20 MINIMUM)	0	\$9 EACH	\$0	\$18 EACH	\$
INDEP. CLAIMS	3	6 (3 MINIMUM)	0	\$42 EACH	\$0	\$84 EACH	\$
FIRST PRESENTATION OF MULTIPLE DEPENDENT				\$140	\$0	\$280	\$
<input type="checkbox"/> ONE MONTH EXTENSION OF TIME				\$55	\$0	\$110	\$
<input type="checkbox"/> TWO MONTH EXTENSION OF TIME				\$200	\$0	\$400	\$
<input type="checkbox"/> THREE MONTH EXTENSION OF TIME				\$460	\$0	\$920	\$
<input type="checkbox"/> FOUR MONTH EXTENSION OF TIME				\$720	\$0	\$1440	\$
<input type="checkbox"/> FIVE MONTH EXTENSION OF TIME				\$980	\$0	\$1960	\$
<input type="checkbox"/> LESS ANY EXTENSION FEE ALREADY PAID				minus	(\$0)	minus	(\$)
<input type="checkbox"/> TERMINAL DISCLAIMER				\$55	\$0	\$110	\$
<input type="checkbox"/> OTHER FEE OR SURCHARGE AS FOLLOWS:					\$0		
TOTAL FEE DUE					\$0		\$

- ☐ A Check is Enclosed in the Foregoing Amount Due.
- ☐ Petition is hereby made under 37 C.F.R. 1.136(a) to extend the time for response to the Office Action of *(a/a)* to and through *(a/a)* comprising an extension of the

appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any and all related fees and to extend or terminate the type of

account 23-3050. This sheet is provided in duplicate.

- ☒ The Commissioner is authorized to charge payment of the following fees and to refund any overpayment associated with this communication or during the pendency of this application to deposit account 23-3050. This sheet is provided in duplicate.
- ☐ The Foregoing Amount Due for Filing this Paper.
- ☒ Any additional filing fees required, including fees for the presentation of extra claims under 37 C.F.R. 1.16.
- ☒ Any additional patent application processing fees under 37 C.F.R. 1.17 or 1.20(d).

SHOULD ANY DEFICIENCIES APPEAR with respect to this application, including deficiencies in payment of fees, missing parts of the application or otherwise, the United States Patent and Trademark Office is respectfully requested to promptly notify the undersigned.

Date: July 3, 2002



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Transmitted herewith for filing in the above-identified patent application is:

☐

☐ An Amendment Supplemental to the Paper filed _____

☐ Other: _____